

Town of Merrimack, New Hampshire

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August 12, 2013

Mr. Newton Tedder
US EPA - Region 1
5 Post Office Square, Suite 100
Mail Code OEP06
Boston, MA 02109-3912

RE: Comments/Questions on the 2013 NH Small MS4 Draft General Permit for the Town of Merrimack, NH

Dear Mr. Tedder:

Thank you for the opportunity to provide comments on the 2013 NH Small MS4 Draft General Permit that was issued in the Federal Register on February 12, 2013. On behalf of the Town of Merrimack, New Hampshire, we wish to offer the following comments/questions:

I. GENERAL ITEMS

1. Town Budgets

The Town of Merrimack, NH is a NH SB2 Town that operates on a July 1 to June 30 fiscal year. The typical budget cycle starts in the fall with preparation of proposed department budgets, progresses to Town Council review in December/January; followed by the public hearing in February and the deliberative session in March, culminating in the ballot vote in April. Given that the 2013 MS4 Draft General Permit was issued in February, and knowing that as an agency we cannot budget for an item until the costs are known, I ask that the year 1 implementation dates, and all successive implementation year dates, be set to one year from the first available budget year following issuance of the permit. The 5 year compliance schedule that is built into the 2013 MS4 Draft General Permit is very concentrated and without some adjustment for a town's budget schedule, it makes it very difficult for the Town of Merrimack to be on time and compliant. For example, if the Permit were issued in September of 2014, year 1 accomplishments would be due after July 1, 2016. Scheduling in this manner would allow the Town to review the issued permit during the budget process, determine costs and include those into the budget, allow for the funding to be approved at Town Meeting in April 2015 for July 1, 2015.

2. Cost to the Town

The cost to Merrimack to fund the programs in the 2013 MS4 Draft General Permit is estimated to be in the tens to hundreds of thousands of dollars annually with total costs for the five years in the millions of dollars. A large portion of the costs are related to the TMDL requirements and the IDDE program. Expenditures of this magnitude are out of line with the "maximum extent practicable" standard.

3. Current Efforts and Validation

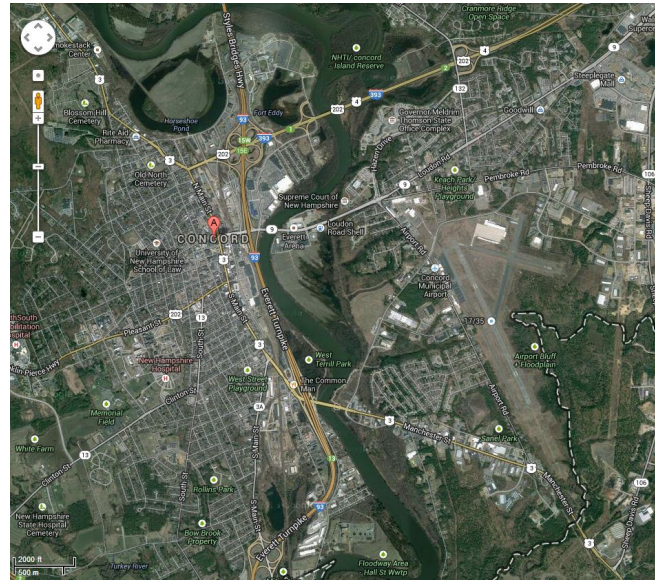
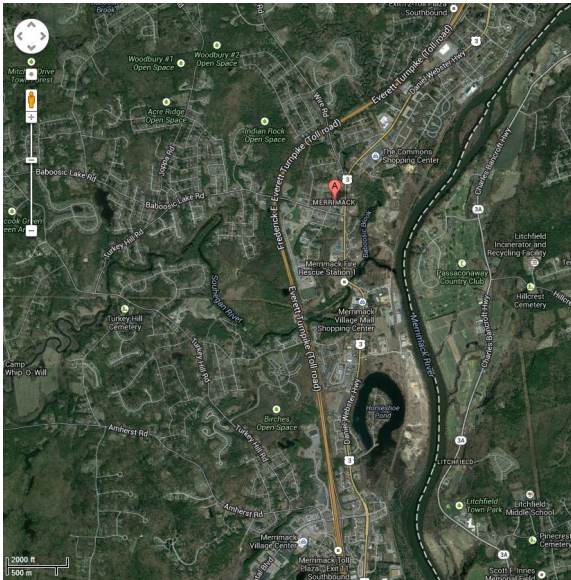
Merrimack has been working under the 2003 MS4 Draft General Permit requirements for ten years and has made significant strides in working toward the shared goal of clean water for the future. The Town has been successful in meeting the requirements of the 2003 MS4 Permit. The long term effect of these efforts since 2003, should be quantified and detailed, with data that is current, sufficient and applicable to get a clear baseline for the draft Permit requirements. We are concerned that there has been limited effort made by the EPA and the NHDES on recording, collecting, and reviewing data during and following the 2003 Permit versus working toward preparing a new permit with greatly enhanced and costly program requirements. It seems that working together incrementally, the EPA, State, and Municipalities can use fiscally constrained resources to achieve the water quality goals in a systematic approach rather than the forced 5-year approach that causes municipalities to spend millions of dollars on program requirements that may or may not achieve the goals. The following is a list of some of the accomplishments by the Town of Merrimack during the last 5 years under the 2003 Permit:

- Completed two major drainage improvement projects (at a cost of \$2M) that removed storm water flow that discharged directly to the Souhegan River and diverted the flows into infiltration basins and sedimentation basins
- Revised planning regulations to decrease parking area requirements
- Completed numerous projects that cut back on the amount of pavement for roadway intersection transitions. We continue to look for and plan projects to reduce the impervious areas of our roadways
- Wrote and Implemented a construction and post construction ordinance to include all disturbances over 20,000 square feet rather than the mandated 1 acre
- Worked closely with the Conservation Commission and Souhegan River Local Advisory Committee to brainstorm ideas for improving water quality
- The Conservation Commission continues to look for land purchases to protect resource areas. The Commission now manages over 1400 acres of protected lands in Merrimack

4. Town Program Inclusion

The EPA Stormwater Phase II Final Rule mandates inclusion in the small MS4 program if the municipality is not in the Phase I program and is in an Urbanized Area (UA) as defined by the Bureau of the Census, and on a case by case basis that the NPDES permitting authority designates. The U.S. Census Bureau defines an urban area as: *Core census block groups or blocks that have a population density of at least 1,000 people per square mile and surrounding census blocks that have an overall density of at least 500 people per square mile.* New Hampshire has 8 municipalities with a population density greater than 1000 per square mile with seven of the eight regulated by the MS4 program (Conway is not). NH has 27 municipalities with population densities greater than 500 per square mile. Of those 27, 22 are regulated (Conway, Concord, Keene, Laconia, and Sunapee are not). There are 39 municipalities with population density of less than 500 per square mile that are regulated, with Lyndeborough having the lowest density of only 54 per square mile. Given the large disparity between those that are regulated and not, please explain the criteria used for inclusion to the program.

Merrimack is listed in the Draft Permit as requiring a bacteria TMDL within the Merrimack River watershed. Concord contributes flow to the Merrimack River yet is not an MS4 community. By way of comparison, Merrimack is 12th in population density and 8th in population; Concord is 17th in population density and 3rd in population. A quick look of aerial views of each community shows the Merrimack (left) as a whole is far more rural than Concord (right) (see pictures below - both views taken at same scale). Merrimack requests removal from the program so long as contributing towns with greater areas of density up river are not included in the program.



At seminars on the shoreland protection program, NHDES has suggested that water quality deterioration begins when impervious area within a watershed exceeds 10%. Currently, Merrimack has approximately 7.5% impervious area. Of that total, 1% is directly attributable to the state roads in Merrimack (F.E. Everett Turnpike, Route 101A, Daniel Webster Highway - outside of the urban compact). Will the State be made to contribute 1/7.5 or 13% of the costs Merrimack bears for the stormwater program?

II. GENERAL PERMIT COMMENTS

1. Non-structural BMPs Scheduling

Enhanced non-structural Best Management Practices (BMPs) should be undertaken and completed to the full extent possible before the determination and expensive planning, designing and construction of the structural BMPs are even contemplated. Additional monitoring and analysis should be undertaken once the non-structural BMPs are in place and have had time to take effect. Only then, should the Towns commit to structural BMPs if the non-structural BMPs are not effective enough to effect water quality. In this manner the towns would have the flexibility to adjust programs, projects and goals to insure the maximum amount of efficiency of time, staffing and costs.

2. Scheduling of Non-structural and Structural BMPs in Year 2

Why would the non-structural controls and structural controls need to be detailed and described both in year 2? Much more time is needed to have controls in place and this schedule places a big burden to the Town in time and costs. Non-structural controls should be first and when they have been in place for an appropriate period of time and the effects of the non-structural controls have been quantified and verified then the Town would determine if structural BMPs are needed.

3. Duplication Error

In Table F.1 in Appendix F. MS4s subject to Statewide Bacteria TMDL under the Primary Town listing for Merrimack the Merrimack River and Souhegan River are listed twice. Is this a duplication error or is a specific section of the Rivers being called out? If this is so, then please note this in Table F.1

4. Permit Compliance

We are concerned that in section 1.5 Permit Compliance in Part I of the 2013 MS4 Draft General Permit Requirements it states that “Any non-compliance with any requirement of this permit constitutes a violation of the permit and the Clean Water Act and may be grounds for an enforcement action and may result in the imposition of injunctive relief and/or penalties” The EPA should have the burden to demonstrate that a discharge is causing or contributing to an impairment, not the permittee. In addition, this implies that the Town will be held responsible for the actions of others, such in the case of an illicit discharge that occurs within the MS4 system. The Town would also be held responsible for pollutant loadings generated upstream of its jurisdictional boundaries. The Town should not be held responsible at any time for the actions or discharges of others.

5. Endangered Species Requirements

In section 1.9.1 of Part 1 of the 2013 MS4 Draft General Permit there are requirements that the Town be responsible for determining if federally listed endangered or threatened species are found in proximity to the MS4’s outfalls and if such species are adversely affected by stormwater discharges or stormwater related activities, e.g. Best Management Practice (BMP) installations. Compliance with these requirements is the Federal Governments responsibility, not the Towns.

6. Water Quality Based Effluent Limitations

In Section 2.1 of Part 1 of the 2013 MS4 Draft General Permit requirements it is stated that the “permit includes provisions to ensure that discharges from the permittee’s small MS4 do not cause or contribute to an exceedance of water quality standards”. We understand that the Town should not be the cause of an exceedance, but a contribution may be possible and numerically may not always be a violation. For example, if a MS4 discharge with a flow of 10 gallons or less per day is in exceedance of the water quality standard for bacteria, this may have no additive effect on the millions of gallons of water that are in a receiving stream such as the Merrimack (Merrimack River has a flow of 420 million gallons per day in the Town of Merrimack) and Souhegan Rivers. The EPA and NHDES must show that the Town MS4 system is causing the violations and not that we are just contributing. EPA should have the

burden of demonstrating that a particular discharge is causing or contributing to impairment and not the Town.

7. 60 Day Rule

We feel that the 60 days in which the permittee must come into compliance is limiting and also should not be considered a violation of the Clean Water Act as noted in Section 2.1.1. c. of the 2013 MS4 Draft General Permit Requirements. Tracing a potential source of contamination through possibly dozens of manholes and stormwater structures will take more than 60 days and involve much staff, lab services and time. There should be more flexibility depending on the situation and its complexity and the Town should determine how long it may take. Also, the permittee should not be in violation since the source of the discharge may be outside the MS4 area and possibly in another jurisdiction.

8. Presumption of Contribution to Impairment

In Section 2.2.2 I, of the 2013 MS4 Draft General Permit Requirements the “EPA presumes that MS4 discharges are potential contributors to impairments due to nutrients (phosphorus or nitrogen, bacteria, etc.)”. We would like to see real quantifiable testing results as part of the process. A large portion of the data supporting this permit is outdated and of limited quantity.

9. Screening and Sampling Procedures

In Section 2.3.4.9. of the 2013 MS4 Draft General Permit Requirements it states that “the permittee shall adopt a screening and sampling protocol consistent with *EPA New England Stormwater Outfall Sampling Protocol (Draft, January 2012)*” Since this document is a draft, how can it be inserted into the 2013 MS4 General Permit without being first finalized by the EPA and NHDES.

10. Sump Cleaning Requirements

In Section 2.3.7.1.d.ii of the 2013 MS4 Draft General Permit Requirements there is a requirement that sumps in catch basins are no more than 50% full of materials from storm flow. What is the scientific basis for the percentage of material in a catch basin? The Town has a regular schedule of cleaning. We also note what basins fill more frequently and make an extra stop at these basins during the year. The EPA and NHDES have no authority to regulate the operation of a stormwater unit and the level of water or material in a sump should not be grounds for violation or the Clean Water Act.

11. Definition of Outfall

There is no definition of outfall in Appendix A of the 2013 MS4 Draft General Permit or in any other section or appendix of the Permit. There are many basins and drainage areas in Town that flow to swales and wooded areas. Some of these swales and wooded areas end somewhere before the water body. How do we determine what is an outfall?

12. TMDL Definition

In the 2013 MS4 Draft General Permit Appendix A, the definition of TMDL states that “A TMDL includes waste load allocations (WLAs) for point source discharges, load allocations (LAs) for non-point sources...” The developed TMDLs that are part of this 2013 MS4 Draft General Permit do not have sufficient WLAs. Instead, all of the loading that is causing the impairment is assumed to be discharged as part of the Town of Merrimack’s MS4 system. We believe that natural sources of pollutants may be a significant cause of the impairment.

13. Unfunded Mandate

On March 13, 2013 the EPA hosted an informational question and answer session at the NRPC offices in Merrimack. During the session, questions regarding the 2013 MS4 Draft General Permit and the various TMDL portions of the permit were posed to Newton Tedder of the EPA. The response to those questions was that DES was responsible for the TMDL content and he (Newton) could not respond to specifics. It can be gleaned from that session that the TMDL portion of the permit is a NHDES program, making it an unfunded mandate from the State of NH to its municipalities per Article 28-a of the New Hampshire Constitution.

III. TMDL REQUIREMENTS – HORSESHOE POND

1. Impairments Removed from the 303 (D) List of Threatened of Impaired Waters

In the NHDES document entitled Impairments Removed (i.e. delisted) from the 303 (D) list of threatened or impaired waters dated April 20, 2012, it states in Group 21 (Horseshoe Pond (NHLAK700060302-02) Chlorophyll-a for Aquatic Life Use (1), that:

“.....In 2010 the assessor accidentally set Chlorophyll a as impaired when they should have set Chloride (one row down in the database) as impaired.

In 2010 there was only one sample available for comparison to the Trophic Class based criteria for Chlorophyll a to protect Aquatic Life Use. Subsequent data collections have determined the median chlorophyll-a of 7.6 ug/L (n=13) is well below the 11 ug/L criteria for chlorophyll a and the median total phosphorous of 22.8 ug/L (n=8) is well below the 28 ug/L criteria for total phosphorous for a eurotrophic lake.

The 2020 listing was in error and since sampling indicates that the waterbody meets the chlorophyll a criteria to protect aquatic life for its trophic class, this assessment unit has been removed from the 303(d) List and placed in category 2 (Full Support) for impairment of Aquatic Life due to Chlorophyll-a. Chloride has been added to the 2012 303(d) as an impairment to Aquatic Life Use.”

It is important to note that although Horseshoe Pond has been removed from the 2012 Final 303(d) List to the EPA dated July 16, 2013 that a chlorophyll-a listing remains for Horseshoe Pond in the 2012 List of All Impaired or Threatened Waters List dated July 16, 2013. It is clear from this example that NHDES needs to review all TMDLs proposed in the NPDES MS4 Draft permit for current and accurate data. Proceeding otherwise will cause municipalities to spend millions of dollars, perhaps needlessly, trying to meet reduction load limits (the Horseshoe Pond TMDL listed in the Draft Permit requires 76% phosphorous removal).

2. Past MS4 Accomplishments and TMDLs

The 2013 MS4 Draft General Permit imposes Total Maximum Daily Limits (TMDL) on Horseshoe Pond through the *Horseshoe Pond Report by AECOM* for Phosphorus, based on samples taken from 1996-1999. Given that the Town of Merrimack has been working on the objectives outlined in the 2003 MS4 General Permit for 10 years, it would be fiscally prudent to obtain current data prior to requiring non-structural and structural measures to be put in place and have evaluated performance on the measures by the end of year 5 of the Permit, especially with the millions of dollars that could be required to meet the draft 2013 MS4 Draft General Permit requirements.

3. Limited Data Used to Determine Phosphorus TMDL

The limited data used for the TMDL developed by AECOM entitled *Horseshoe Pond Report Merrimack, NH, (January 2011)* relied on data collected from 1996 – 1999 (see Table 2.1 in the TMDL for Horseshoe Pond, Merrimack, NH 2011). In this table it is noted (bottom of table) that “Water quality statistics are calculated from 1996 – 1999 data”. In Table 2-2 of the TMDL for Horseshoe Pond, Merrimack, NH 2011, it notes in the table and the body of text in Section 2.1 that the Pond summer water quality summary table utilizes data from 1996 - 1999. Current, extensive and seasonal Phosphorus testing should be crucial to establishing appropriate and accurate TMDL requirements. If there is current data, then that data should be part of the TMDL that was included in the 2013 MS4 Draft General Permit. If there is none then the TMDL process needs to start over with data collection. How legitimate are these chlorophyll tests and cyanobacteria observations that were performed over 13 to 14 years ago? What is the validity for the sampling techniques, sample holding times, quality control measures, analysis methods and chains of custody? Were they appropriate at the time of the tests and observations?

4. Limitations to the Phosphorus Analysis

In section 3.4 on page 3.6 of the HP TMDL it is noted that there is “reasonable accounting of P sources” but that there are “several limitations to the analysis”. The limitations to the analysis include precipitation variability, spatial analysis limitations, total phosphorus coefficients that are regional estimates, total internal loading lack of data and restrictions to the model based on limited available data. Clearly, all of these factors place a great burden of doubt on the estimations of the final phosphorus analysis and the resultant TMDL. How can the EPA and the NHDES mandate that a set reduction in total phosphorus be achieved when there are very questionable limitations to the phosphorus analysis presented in the report and no hard phosphorus data?

5. Dissolved Oxygen (DO) Depletion and Total Phosphorus Reduction

It is noted in Section 2.6 of the 2013 MS4 Draft General Permit that “Reducing algal productivity through control of Total Phosphorus should also reduce hypolimnetic DO depletion although Horseshoe Pond is not currently listed as impaired with respect to DO. Why state that there is no issue with DO depletion in Horseshoe Pond but that the goal of Phosphorus reduction is to reduce DO depletion. This is implying a need and requirement for the Town that is beyond the scope of the *Horseshoe Pond TMDL Report by AECOM*.

6. Lack of Hard Data and Models to Establish TMDL Requirements

Instead of actual current data for establishing the TMDL requirement in the *Horseshoe Pond TMDL Report* it relies on several models to determine the epilimnion mean for the Pond. The model has been fed data from the 1996 – 1999 testing period. The models assume that the MS4 system in Merrimack is responsible for the impairment and that all of the loading is coming from the MS4 system. There is no concrete evidence that the MS4 system is causing the impairment. In Section 3.2 of the *Horseshoe Pond TMDL Report* it states that the “Annual areal loading of TP from the watershed is estimated to be 41.5 kg/yr which represents 90% of the total load to the Pond. Using an estimate and then developing requirements for the Town is wrong. Viewing the stormwater layer in the Town's GIS system shows four outfalls 'near' Horseshoe Pond. The distances from the end of the pipe to the Pond are 247', 131', 218' and 356' (running south to north). The stormwater runs through forested area before having a chance to reach the Pond.

7. No Loading Quantification for Establishing TMDL Requirements

Internal loads of TP and waterfowl numbers are not listed because there is reportedly no data available as noted in Section 3.2 of the *Horseshoe Pond TMDL Report*. In Section 3.4 it is stated that “Water quality data for Horseshoe Pond and its tributaries are limited, restricting calibration of the model” Also in Section 3.2 it is noted that “TP loading estimates from water fowl and internal loading could not be made due to the lack of data although the contributions from these sources as expected to be small relative to the watershed sources”. This is another example of how the loading quantification through current sampling needs to be completed if this TMDL is to be accurate and appropriate.

8. Use of Several Models to Predict In-Pond Total Phosphorus Concentrations

In Table 3.4 of the *Horseshoe Pond TMDL Report* five different empirical equation models and a mass balance are used to predict in-Pond concentrations of TP. The results of this table show variations of results from 81 ug/l to as low as 17 ug/l. The mean of these results (38 ug/L) is then used to determine the final TMDL for the Pond. This is another example of how loading quantification through current sampling needs to be completed if this TMDL is to be accurate and appropriate. In addition to Phosphorus loading, the in Pond concentrations of mean and peak chlorophyll-a, bloom probability and transparency (Secchi Disk Transparency) are also predicted. In Section 4.1 the Report notes that the target in-Pond TP concentration of 12ug/l needs to be achieved to meet water quality standards. Actual current data needs to be the basis for the assumptions made in this TMDL, taking into account the seasons, various Pond layers, overturn, and loading sources (natural, water fowl, internal). Only then will this be a defensible TMDL. No town will be able to convince elected officials that a report, largely based on predictions and modeling is worth spending tax payers dollars on.

9. Waste Load Allocations for Phosphorus are Questionable

In Section 5.1 of the *Horseshoe Pond TMDL Report* it is noted that “Waste load allocations identify the portion of the loading capacity that is allocated to point sources (such as MS4s) and load allocations identify the portion of the loading capacity that is allocated to non-point

sources (such as fields) and natural background” It also notes that “ in order to accurately develop allocations for these two categories of sources it is essential to have not only a complete accounting of each point source, but also a delineation of the associated drainage area and an estimate of the existing loading.” It goes on to say that the real challenge in splitting out point sources from non-point sources resides with the available data.” There is limited data used in this report for determining loading for point and non-point sources. The waste load allocation is being estimated along with the load allocation. It would seem that the report should have generated more current, appropriate and extensive sampling data (Phosphorus & Chlorophyll a) before the waste load and load allocations were fully developed. Section 5.1 also notes that “because sufficient information at the parcel level was simply not available in this watershed, it is infeasible to draw a distinction between stormwater from existing or future regulated point sources, non regulated point sources and non point sources”. This is used as the reason in the Permit as to why there is a single waste load allocation figure (expressed in a percent reduction) which has been set for the entire watershed.

10. Meeting Phosphorus Target of 12ug/L

Based on the Phosphorus target of 12 ug/L it may be impossible and will be very expensive for the Town of Merrimack to meet the targeted reduction of Phosphorus for two reasons as noted below:

- a. The percent reduction that is expected for TP is extremely difficult to achieve based on current literature as cited in the Report. The Horseshoe Pond TMDL Report cautions in Section 6.2 that “A reduction of 76% (from 38ug/L to 12ug/L) will be difficult to achieve without very aggressive action as it is greater than the maximum estimated achievable reduction of approximately 60 – 70 % (Center for Watershed Protection).” In Section 7.0 it also states that “Since the watershed load reduction required for Horseshoe Pond is 76%, the goal will be difficult to obtain.”*
- b. Also, the topography (steep wooded inclines to the Pond) and the lack of open space (due to concentrated residences/backyards) at Horseshoe Pond will greatly limit the options available to the Town for effective and reasonable best management practices (structural BMPs). The Report supports this conclusion as noted in Section 7.0 when it states that “Reductions greater than 70% are possible, but consideration of costs, space requirements, and legal ramifications (e.g. land acquisitions, jurisdictional issues), limit attainment of such reductions.*

There needs to be a incremental approach to reduction of Phosphorus, if needed, that includes extensive sampling and a process of logical steps utilizing first non-structural BMPs and then structural BMPs (if necessary) with evaluations of progress made in meeting water quality standards at various steps in the process.

IV. TMDL REQUIREMENTS - BACTERIA

1. Ambiguity on Sampling Sites

In Appendix F of the 2013 MS4 Draft General Permit Section 3 dealing with TMDLs states that “The WLA of MS4 discharges is set at that relevant water quality standard, although compliance with the TMDL will be based on the ambient water quality and not water quality

at the point of discharge (i.e. end of pipe).” This statement is in contradiction to the end of pipe reductions that are required as part of the TMDL and listed on Table F-1 MS4s Subject to Statewide Bacteria TMDL

2. Watershed Loadings Unfairly Applied in the Bacteria TMDL for Merrimack

The TMDL for Merrimack expects that certain percentages of bacterial reduction are now the responsibility of the Town. Merrimack is responsible for the Merrimack River. This is wrong in that on the other side of the Merrimack River is the Town of Litchfield. Litchfield is not covered under the 2013 MS4 Draft General Permit even though they clearly must have some point source and especially some non-point source discharge of bacteria into the Merrimack River. The Town of Merrimack is given the whole burden of reducing the bacteria loading to the River while other communities have no responsibility. In addition, bacteria loading upstream of Merrimack from some other communities such as Manchester (a CSO community and Concord (not covered by the 2013 MS4 Draft General Permit) may be the most significant contributors to the impairment of the River in Merrimack. Why should Merrimack be penalized for the loadings from other communities and non-point sources? It would be most prudent to have the State be the lead agency to correct deficiencies in State waters as it is inherently unfair to select which communities will bear the cost and which will not. Choosing the current method because of a defined tax source (property tax) instead of working through the State Legislature to secure appropriate funding is the wrong way to achieve clean water (which we all want) as it will lead to inefficient use of scarce funds. The State working at a more global watershed level would allow for efficiencies and economies of scale that cannot be obtained at the local level.

3. No Evidence that the MS4 Communities Need to Control Bacteria

There is no hard factual data or evidence that the MS4 control is necessary to achieve compliance with the applicable water quality standard or that the allocation in the TMDL when correctly applied (see previous note regarding Litchfield) will result in compliance with Clean Water Standards. We would like to see how this TMDL process was determined so that a discharge causes or contributes an exceedance of the bacteria standards. Before expensive controls are forced on the Town a thorough review of the data used to produce the TMDL is accomplished and that there is no uncertainty that the MS4 system in Merrimack is to blame for any exceedance in ambient river quality.

4. Discharge Water Quality Vs. Ambient Water Body Quality

Section 3. of Appendix F states that *"The WLA for MS4 discharges is set at the relevant water quality standard, although compliance with the TMDL will be based on ambient water quality and not water quality at the point of discharge (i.e., end of pipe)".* The general permit that is to be obtained by the municipalities is a Stormwater **Discharge** From MS4's permit. It is unreasonable given the 'Maximum Extent Practicable' standard to expect the municipality to bear the entire financial burden for cleaning State waters without proving that the end of pipe discharge is the major contributor to the impairment.

5. Street Sweeping

Section 3. ii. of Appendix F requires the sweeping of streets *"at least two times per year"*. Currently, the Town of Merrimack sweeps every public street, lot, and sidewalk each spring

as soon as the winter season allows at a current cost of more than \$50,000. During that operation, we pick up the residual sand that was applied during the winter season. Most of Merrimack's streets are uncurbed. A second sweeping of the streets would not be of practical or fiscal value for the Town as very little debris accumulates along the road edges during non-winter seasons.

V. ATTORNEY'S REVIEW AND COMMENTS

As a participant in the efforts of 20 other New Hampshire communities that are subject to the 2013 MS4 General Permit and have secured the legal services of Sheehan Phinney Bass + Green, PA, of Two Eagle Square, Concord, NH, we would like to directly reference, on our behalf, their submittal of comments to the EPA and the NHDES regarding the 2013 MS4 Draft General Permit.

VI. NEW DRAFT 2013 MS4 GENERAL PERMIT

Due to the many comments, questions, issues and concerns identified and noted in this letter about the 2013 MS4 Draft General Permit from the Town of Merrimack and also in the submittal of comments by Sheehan Bass + Green and other NH communities, we are respectfully requesting that the EPA and NHDES withdraw the 2013 MS4 Draft General Permit and reissue a new MS4 Draft General Permit for our review and comment as soon as possible.

Sincerely,

Richard Seymour, Public Works Director

Kyle Fox, Deputy Director/Town Engineer

cc: Eileen Cabanel, Town Manager
Merrimack Town Council